

Date: 20070704

Docket: T-1116-04

Citation: 2007 FC 695

BETWEEN:

MARCHAND SYNDICS INC.

and

GEORGES E. MARCHAND

and

BRUNO MARCHAND

Applicants

and

SYLVIE LAPERRIÈRE

Respondent

ASSESSMENT OF COSTS – REASONS

DIANE PERRIER, ASSESSMENT OFFICER

[1] This is an assessment in writing of the respondent's bill of costs following a judgment dated November 10, 2004, dismissing the application for judicial review with costs.

[2] The following fees are allowed in the amount of \$3,240 for the following items in Tariff B: 2 (5 units), 13(a) (4 units), 14(a) (3 units X 5 hours), 25 (1 unit) and 26 (2 units). I am only allowing 5 hours for item 14(a) since the hearing only lasted 5 hours according to the transcript of the hearing of September 22, 2004.

[3] Based on the evidence submitted, costs are allowed in the amount of \$2,583.16. I have allowed the following amounts: \$846.14 for photocopies and reproductions, \$33.73 for consultation of legal data bases, \$75.17 for the costs of service by the bailiff, \$630.23 for stenographic costs and \$977.89 for travel expenses. An amount of \$12 is allowed for photocopies because it is reasonable and attached as an exhibit to the affidavit of Mr. Letarte.

[4] It must be noted that an assessment is only a partial indemnification of party and party costs and, on this point, the disbursements can only be allowed for the documents for which the respondent can claim for the fees. I therefore accept the applicant's argument regarding the invoice for \$217.14 since the invoice for printing indicates that it involves documents that would have been printed after the judgment; hence, in my opinion, the costs were compensated under item 25 of Tariff B and cannot be allowed again. The bill for \$685.20 will be allowed since it is for photocopying the affidavit of Ms. Laperrière and the respondent's record. The bills for \$73.63 and \$148.08 represent costs incurred for photocopying the affidavits of the applicants, and therefore these costs are refused because they involve the applicant's documents. The bill for \$160.94 corresponds to the respondent's books of authorities and is allowed since it is an expense incurred

by the respondent. The bill of \$256.08 will be refused because it is for photocopying the applicant's records.

[5] With respect to the bill for travel costs in the amount of \$755.93, I agree with the applicant that the respondent's two lawyers could decide to meet before the examination of the applicant's client, but the applicant does not have to pay those costs. On the other hand, I agree with the respondent that compensation for meals and incidental expenses in accordance with government rates is reasonable and should be allowed as in *Decker v. Canada (Attorney General)* (T-1124-03). I would therefore allow the costs incurred beginning June 29, 2004, i.e. \$182.78 for accommodation and incidental expenses, breakfast, dinner as well as the expenses for breakfast, dinner and incidental expenses of June 30, 2004, and the two taxi fares in the amount of \$20. In addition, I agree with the respondent that he was not obligated to leave the same day for the examination; it seems completely reasonable to me to leave Ottawa the day before to travel to Montreal for the next day. I therefore will allow the mileage between Ottawa and Montreal, i.e. 200 kilometres x 44 cents, for a total of \$88. Accordingly, I will allow the amount of \$348.73 for this trip.

[7] The bill for \$616.95 will not be allowed because it involves preparation by counsel and by Ms. Laperrière for her examination for discovery and not for the discovery itself, which took place on August 17, 2004. To be compensated for this expense, the respondent could have made a claim under item 8 of Tariff B for preparation for the examination for discovery. On the other hand, the bill for \$656.15 concerns the hearing on the merits on September 22, 2004, and this bill will be

allowed except for \$7 for a taxi that is, in my view, an operating cost of the office and not a travel expense. The bill for \$656.15 will therefore be allowed in the amount of \$649.16.

[8] The respondent's bill of costs submitted in the amount of \$7,921.23 is accordingly assessed at \$5,835.16. A certificate of assessment will be issued for this amount.

DIANE PERRIER
ASSESSMENT OFFICER

QUÉBEC, QUEBEC
July 4, 2007

Certified true translation
Mary Jo Egan, LLB

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1116-04

STYLE OF CAUSE: MARCHAND SYNDICS INC. and GEORGES E.
MARCHAND and BRUNO MARCHAND v. SYLVIE
LAPERRIÈRE

ASSESSMENT OF BILL OF COSTS IN WRITING

PLACE OF ASSESSMENT: Québec, Quebec

REASONS OF DIANE PERRIER, ASSESSMENT OFFICER

DATED: July 4, 2007

SOLICITORS OF RECORD:

Gervais et Gervais
Montréal, Quebec

FOR THE APPLICANTS

John H. Sims, Q.C.
Department of Justice Canada
Ottawa, Ontario

FOR THE RESPONDENTS